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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/562,821
Filing Date: December 29, 2005
Appellant(s): BILLIARD ET AL.

Roland E. Long, Jr.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 20, 2008, appealing from the Office action mailed February 20, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0130900 Davis 9-19-2002

Sanderson, WO 02/44897 A1, 06-06-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC 5 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject, matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to

the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 13, 15-21 and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over of Davis, US 2002/0130900 A1 in view of Sanderson, WO 02/44897 A1.

Regarding Claim 13, Davis discloses the claimed aspect of a method for graphic interfacing between a user and a computer system in which the following operations are performed: (FIG. 1, FIG. 2 and FIG. 3)

- inputting a user request at a client terminal (Davis, FIG. 3, client computer connects to server, 304),

-transmitting the user request(FIG. 3, sends a request, 306) from the client terminal to a server part for processing by the server part view of being processed and for generating a response,

- receiving a response to the request at the client terminal, the response generated by the server part (FIG. 3, sends interface components and code components, 310),

- displaying the response at the client terminal (F1G. 3, displays GUI, 316),

wherein:

- the response comprises instruction data and display data to be displayed (F1G. 3, GUI is rendered);

- at the client terminal, the instruction data are interpreted construct a visualization and forwarded to an association engine (FIG. 3, association is performed in viewer 200, wherein GUI and native widgets are combined);

at the client terminal, a visualization model is created by the association engine according to the interpreted instruction data through the association of construction elements retrieved from storage at the client terminal (F1G. 3, Viewer 200 renders GUI with native widget on Client computer 202, 316), the construction elements (widgets are construction elements) including a descriptive interface of visualization model objects, a presentation layer, and logical rules, wherein the XML stream contains the interface components. (FIG. 3, 312, 320);

Davis discloses the claimed aspect of rendering GUI and widgets are merged on at the client terminal. However, Davis does not specifically teach merging the data aspect "at the client terminal", with the visualization model in order to display the merged result. Sanderson discloses the claimed aspect of merging the data aspect at the client terminal, with the visualization model in order to display and displayed as a merged result, wherein UI generator communicates with databases and initiates a user interface. (Page 9, Paragraph 001 0, lines 1-3). Specifically, Sanderson illustrates the aspect of displayed and merged data on the interface in FIG. 1, 104A.

It would be obvious to an ordinary skill in the art at the time of the invention to enhance Davis's invention with Sanderson's invention to merge the interface with the data, because all applications need data in order to perform a function.

- the logical rules applied at the client terminal (Davis, FIG. 3, logical rules about the widgets are stored in Viewer at Client computer, based on the information about widgets, 316, 322) to the visualization model by a rules engine, providing event operated interface controls in the visualization model and script code (XML Stream, 320) to manage the event-operated interface controls at the level of the client terminal. Furthermore, viewer 200 renders the graphical user interface with the native widget set of the client computer's operating system, based on the widget information from the projector and therefore, the native widget set dictates the appearance of the widgets, such as their style and shape, and the interface for the application looks and feels like a native desktop application. (Davis, FIG. 3, See Abstract). Furthermore, Sanderson, discloses the claimed aspect in FIG. 2, wherein a validator 21 1 and format 212 are illustrated which apply logical rules. Applicant should duly note that validation is based on certain criteria.

Regarding Claim 15, most of the limitations have been met in Claim 13. See Claim 13 for details. Sanderson discloses in FIG. 4B context file ,426, 450 and at step 428, 432 context file is parsed and the content specifications are extracted, wherein new set of content specifications and task descriptions can be extracted (Sanderson, Page 26, lines 5-1 0). It would be obvious to one of ordinary skill in the art at the time of the invention to have the language specified in the context file, because this would allow different language usages. "at -the client terminal, associating a language resource from a plurality of language resources to the visualization model, the plurality of language resources stored at the client terminal, to adapt the visualization model to a predetermined language, a designation of the predetermined language, to be associated to the

visualization model, provided in the instruction data from the server part".

Regarding Claim 16, most of the limitations have been met in Claim 13. See Claim 13 for details. Davis discloses the claimed aspect of at the level of the client terminal, associating personalization display filters to the visualization model in order to modify a visual rendering of the visualization model according to specific client parameters, wherein some personalization display filters are associated to the visualization model in order to modify the visual rendering of the default visualization model at the level of the client terminal, wherein projector 100 transmits XML stream of interface component of software application to viewer 200 and viewer 200 has information about what each widget needed. Specifically, Davis discloses that the interface component includes information about all the widgets needed to execute the application, such as their placement, size, and captions. The viewer renders the graphical user interface with the native widget set of the client computer's operating system, based on the widget information from the projector. Therefore, the native widget set dictates the appearance of the widgets, such as their style and shape, and the interface for the application looks and feels like a native desktop application. (Davis, See Abstract).

Also, Sanderson discloses the claimed aspect wherein the configuration data and context file is parsed in FIG.4B, 428 to obtain the workflow description and content specification. Specifically, Sanderson discloses that the user will provide a content specification to the declarative User Interface generator 103 specifying the type of data to be displayed in the dynamically generated UI and the tasks with which the data can be accessed and manipulated through the dynamically generated UI. (Sanderson, Page 13, Paragraph 20).

Regarding Claim 17, most of the limitations have been met in Claim 13. See Claim 13 for details. Sanderson, achieves the aspect of instruction data including an indication of the type of construction elements characterizing the visualization model to be created, wherein in FIG. 2, Specification 209, Content 207 and DataElement 208 contain the element characters to be created.

Regarding Claim 18, most of the limitations have been met in Claim 13. See Claim 13 for details. Sanderson discloses the claimed aspect of data resident at the client terminal are updated at the client terminal through the following steps:

- at the server part, generating a storing message which includes storing instruction data and data to be stored(FIG. 2, Client 201 D dialogs with messenger),
- transmitting the storing message from the server part to the client terminal (F1G. 2, FROM 207(content has write, read instructions) to 208 and to 209),
-at the client terminal, data are in storing the data to be stored in a memory device local to the client terminal in a manner according to the storing instruction data(Client 201 D, delivers data to/from specification 209).

Regarding Claim 19, most of the limitations have been met in Claim 13. See Claim 13 for details. Sanderson achieves the claimed aspect of display is performed at the client terminal through the use of a navigator, wherein in FIG. l a system is illustrates a content browser 101 that

can be any application suitable for decoding and displaying markup either in a desktop or handheld environment. (Sanderson, Page 10, Paragraph 5).

Regarding Claim 20, most of the limitations have been met in Claim 13. See Claim 13 for details. Davis discloses the claimed aspect at least a portion of the data to be displayed and at least a portion of the construction elements of the visualization models use a XML format, wherein the projector 100 responds to the viewer 200 with the interface component of the software application in a descriptive language such as Extensible Markup Language ("XML") (step 312) and the XML stream includes information about each widget that is needed by the client computer 202 to execute the software application. (Davis, Page 3, Paragraph 0030, lines 8-14).

However, Davis does not teach the claimed aspect of the merging result is translated to the HTML format in order to be displayed. On the other hand, Sanderson achieves the claimed aspect of the result to be displayed as HTML format, wherein in FIG. 1 content is displayed on a content browser 101 is a web browser for interpreting HTML compliant markup. (Sanderson, Page 10, Paragraph 5, lines 4-6).

It would be obvious to an ordinary skill in the art at the time of the invention to enhance Davis's invention with Sanderson's invention feature to translate the merged results to HTML format, because it will allow other remote users to access the content browser.

Regarding Claim 21, Davis discloses the claimed aspect of graphic interfacing between a user and a computer system in FIG. 3. The rejection for Claim 13 applies to Claim 21. See the rejection details for Claim 13.

Regarding Claim 24, most of the limitations have been met in Claim 21. See Claim 21 for details. The rejection for Claim 19 applies to Claim 24. See the rejection details for Claim 19.

Regarding Claim 25, most of the limitations have been met in Claim 13. See Claim 13 for details. Davis discloses the claimed aspect of the script code is provided in the JavaScript scripting language is well known in the art at the time of the invention. (Davis, Page 3, Paragraph 0032).

Regarding Claim 26, most of the limitations have been met in Claim 13. See Claim 13 and 25 for details. Davis discloses the claimed aspect of the visualization model comprises script code, and markups (Davis, XML, Page 3, Paragraph 0030), the script code being in the JavaScript scripting language(Davis, Page 3, Paragraph 0032), the markups being in Hypertext Markup Language (Davis, HTML, Page 1, Paragraph 0003).

It is well known in the art at the time of the invention that user interface have images, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have images in the visualization model.

Regarding Claim 27, most of the limitations have been met in Claim 21. See Claim 21 for details. The rejection for Claim 25 applies to Claim 27. See the rejection details for Claim 25.

Regarding Claim 28, most of the limitations have been met in Claim 21. See Claim 21 for details. The rejection for Claim 26 applies to Claim 28. See the rejection details for Claim 26.

Regarding Claims 29 and 30, most of the limitations have been met in Claim 21. See Claim 21 for details. The rejection for Claims 15 and 16 apply to Claims 29 and 30. See rejection details for Claims 15 and 16.

Regarding Claims 31, both Davis and Sanderson disclose a graphic interface device (Davis, FIG. 1, 202, Sanderson, FIG. 1). The rejection for Claims 1 and 18 apply to Claim 31. See rejection details for Claims 1 and 18.

(10) Response to Argument

Appellant's arguments made in (vii) Arguments (Pages 14-38) with regards to claims 13, 15-21 and 24-31, filed August 20, 2008, have been fully considered but they are not persuasive.

Appellant argues (pages 14-29), that the rejection of claim 13 is improper because the combination of Davis in view of Sanderson fails to teach all the elements recited in the claim and that there exists no motivation to combine Sanderson with Davis as presented in the Final Office Action of February 20, 2008. Appellant's arguments are summarized below:

Argument I.(A): Appellant argues that neither Davis nor Sanderson teach or suggest creating a visualization model at the client as recited by claim 13.

(1) Appellant argues that as Davis teaches that the graphical interface is constructed at the server prior to being transmitted to the client, the visualization model is therefore completely constructed at the server and not at the client.

(2) Appellant further argues that as all code execution takes place inside the server of Davis, the client of Davis is dependent on the server.

Argument I. (B): Appellant argues that neither Davis nor Sanderson teach or suggest the association engine to create the visualization model as recited by claim 13.

(1) Appellant argues that Davis fails to teach or suggest the rules engine to apply logical rules at the client to provide event-operated interface controls in the model. Appellant argues that Davis transmits all user interaction to the server, which in turn processes the event, and sends a respond to the client to render, alleging that this is in sharp contrast to the limitation of claim 13.

(2) Appellant argues that Davis and Sanderson both expressly teach away from the use of scripts and/or a script-compatible browser.

Argument I. (C): Appellant argues that Sanderson does not teach the logical rules recited by claim 13.

Argument II: Appellant argues that neither Davis nor Sanderson teach or suggest that the response from the server comprises instruction data and display data, and that the display data of the response is merged with the visualization model at the client terminal and displayed at the client terminal.

(1) Appellant argues that Sanderson makes no teaching of the response comprising display data combined with the visualization model.

(2) Appellant argues that as Sanderson teaches receiving instructions on how to retrieve the content after the data has already merged with the visualization model and Davis teaches receiving an already merged data, that neither Davis nor Sanderson can teach or suggest that the display data of the response is merged with the visualization model at the client terminal.

(3) Appellant argues that the Examiner has failed to offer rational motivation to one of ordinary skill in the art to combine both references. Appellant argues that the Examiner's motivation to combine the references is conclusory and that as the references teach away from each other and the present invention, Sanderson cannot be combined with Davis.

Appellant argues (pages 30-32), that the rejection of claim 15 is improper because the combination of Davis in view of Sanderson fails to teach all the elements recited in the claim. Appellant's arguments are summarized below:

Argument III: Appellant argues that neither Davis nor Sanderson, individually or in combination, teach or suggest the added limitations of claim 15.

(1) Appellant argues that neither Davis nor Sanderson describe or suggest any mechanism or resource related to a plurality of language resources.

(2) Appellant argues that the Examiner has failed to provide any teaching of the recited feature found in either Davis or Sanderson.

(3) Appellant argues that the context file provided by Sanderson is only for data types and elements, and not towards language or a plurality of language resources.

Appellant argues (pages 33-38), that the rejection of claim 16 is improper because the combination of Davis in view of Sanderson fails to teach all the elements recited in the claim. Appellant's arguments are summarized below:

Argument IV: Appellant argues that neither Davis nor Sanderson, individually or in combination, teach or suggest the added limitations of claim 16.

(1) Appellant argues that Davis does not teach the step of modifying the visual rendering of the visualization model already created by elements in claim 13 using personalization display filters.

(2) Appellant argues that Sanderson does not provide teaching or suggestion that a user can modify a visual appearance of the UI.

The Examiner respectfully disagrees with the above arguments.

The Examiner would like to note that Appellant's use of the language "association engine", "visualization model", "logical rules", and "language resources" provide for a broad range of reasonable interpretations in the context of the instant claims.

Response to Argument I. (A) (1): Appellant argues that Davis teaches that the graphical interface is constructed at the server prior to being transmitted and that the visualization model is therefore completely constructed at the server and not at the client. The Examiner respectfully disagrees. Davis discloses wherein the received response includes both instruction data and

display data to be displayed ([0030]: "[..] responds to the viewer 200 with the interface component of the software application in a descriptive language [..] the XML stream may include a name for each widget, directions on the size and placement of each widget, and any captions provided on each widget." Clearly the XML stream, i.e. the response, includes both instruction data, i.e. directions to be followed, and display data to be displayed, i.e. captions provided on each widget.). This information is then interpreted by the client ([0030]: "The information is stored in the viewer 200 [..]"). The response datas are then associated with further information, stored locally, about the client's rendering environment ([0030]). The association provides a model by which the associated information may be rendered on the GUI ([0030]: "Specifically, the native widget set of the client computer's 202 operating system is used to draw the interface, or render the GUI, so an application published in accordance with the present system looks and feels just like a native desktop application to the user (step 316)."). Clearly, the visualization model is constructed at the client (viewer) through the association of the response datas with the native widgets (construction elements). The argument is not persuasive.

Response to Argument I. (A) (2): Appellant argues that all code execution occurs at the server and the client of Davis completely dependent on the server. The Examiner disagrees. Davis discloses that interactions occur on the client that do not need to be sent to the server for processing ([0034]: "The present invention is also advantageous as compared to custom client binaries because it sends updates to the server 102 only when the user performs an event by clicking on a button or pressing "Enter," for example. Custom client binaries, on the other hand, generate an open slate bitmap on the client computer so that each time the user moves the mouse

or the cursor on the bitmap, an update is sent to the server. This makes custom client binaries extremely slow. Further, custom client binaries let the server draw the bitmap on the client computer. Thus, the user sees, and feels like he/she is using, a server computer rather than a native desktop application. The present invention, on the other hand, enables the client computer 202 to render the appearance of the server's 102 response.").

Response to Argument I. (B) (1): Appellant argues that Davis fails to teach or suggest the rules engine to apply logical rules at the client to provide event-operated interface controls in the model. Appellant argues that Davis transmits all user interaction to the server, which in turn processes the event, and sends a respond to the client to render, alleging that this is in sharp contrast to the limitation of claim 13. As in the response to Argument I. (A) (2) above, Davis discloses that not all event-operated interface control events are sent to the server for processing. In particular, if a user was to move the mouse or cursor around, an example of an event-operated interface control event as interpreted from the claim language, the client applies the logical rules of the native UI to the visualization model generated from the association engine to manage the controls at the client level. The argument is not persuasive.

Response to Argument I. (B) (2): Appellant argues that Davis and Sanderson both expressly teach away from the use of scripts and/or a script-compatible browser. The Examiner disagrees. Appellant's cited passages of Davis and Sanderson teach that Davis and Sanderson teach improvements over the script use. Simply because a reference teaches an alternative as inferior does not constitute a teaching away from that alternative, MPEP 2145 IX D. 1:

A prior art reference that "teaches away" from the claimed invention is a significant factor to be considered in determining obviousness; however, "the nature of the teaching is highly relevant and must be weighed in substance. A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." In re Gurley, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994) (Claims were directed to an epoxy resin based printed circuit material. A prior art reference disclosed a polyester-imide resin based printed circuit material, and taught that although epoxy resin based materials have acceptable stability and some degree of flexibility, they are inferior to polyester-imide resin based materials. The court held the claims would have been obvious over the prior art because the reference taught epoxy resin based material was useful for applicant's purpose, applicant did not distinguish the claimed epoxy from the prior art epoxy, and applicant asserted no discovery beyond what was known to the art.).
Furthermore, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

Response to Argument I. (C): Appellant argues that Sanderson does not teach the logical rules recited by claim 13. The Examiner notes that the logical rules have been previously disclosed by Davis. The argument is therefore moot.

Response to Argument II (1): Appellant argues that Sanderson makes no teaching of the response comprising display data combined with the visualization model. Sanderson was combined with Davis because Davis, while disclosing the combining of native widgets with the instruction data to create the visualization model as well as publishing the GUI from the visualization ([0030]), does not explicitly provide for "merging" of the display data with the visualization model at the client terminal. That is, the deficiency of Davis is simply that Davis does not explicitly disclose "merging" of data with a model at the client terminal to yield a result. Sanderson is combined to show that displaying of merged data at a client terminal to yield a result is known in analogous art. This is accomplished by showing that Sanderson discloses the use of context files to configure the rendered displays at a client, i.e. data (files) is merged with a UI model to display a rendered result at the client (page 9 lines 6-23). The argument is not persuasive.

Response to Argument II (2): Appellant argues that as Sanderson teaches receiving instructions on how to retrieve the content after the data has already merged with the visualization model and Davis teaches receiving an already merged data, that neither Davis nor Sanderson can teach or suggest that the display data of the response is merged with the visualization model at the client terminal. This argument has been addressed at least by the reasoning found in the Response to Argument II (1) above.

Response to Argument II (3): Appellant argues that the Examiner has failed to offer rational motivation to one of ordinary skill in the art to combine both references. Appellant argues that the Examiner's motivation to combine the references is conclusory and that as the references teach away from each other and the present invention, Sanderson cannot be combined with Davis. The Examiner respectfully disagrees. As discussed in the Response to Argument II (1), The deficiency of Davis which Sanderson rectifies, is merging of data with the model at the client. Davis does not provide an explicit reference to merging at the client. Combining the analogous art of Sanderson with Davis yields a predictable result. As previously discussed, neither Sanderson nor Davis teaches away from this result. As such, Sanderson provides the non-explicit step of Davis, "merging" at the client. There is motivation found in Davis, as the data is rendered into the GUI through use of the visualization model is displayed at the client.

Response to Argument III (1): Appellant argues that neither Davis nor Sanderson describe or suggest any mechanism or resource related to a plurality of language resources. Sanderson

discloses that new content specifications and task descriptions are extracted from the parsed context file's content specifications (Page 26 lines 3-11). As discussed in the Final Rejection of Claim 15 dated February 20, 2008, this suggest to one of ordinary skill in the art at the time the present invention was made to associate a language resource (new context specification) from a plurality of language resources (parsed content specification) stored at the client terminal (context file). The context file is provided from the server and stored in the client. The argument is not persuasive.

Response to Argument III (2): Appellant argues that the Examiner has failed to provide any teaching of the recited feature found in either Davis or Sanderson. This argument has been addressed at least by the Response to Argument III (1) above.

Response to Argument III (3): Appellant argues that the context file provided by Sanderson is only for data types and elements, and not towards language or a plurality of language resources. The Examiner respectfully disagrees. Sanderson provides suggestion for language resources by providing disclosure for data types and elements, as Appellant's language resources can be broadly interpreted to include data types and elements used for the language, i.e. resources used for the language. The argument is not persuasive.

Response to Argument IV (1): Appellant argues that Davis does not teach the step of modifying the visual rendering of the visualization model already created by elements in claim 13 using personalization display filters. However, the Examiner notes that the features upon

which Appellant relies (i.e., "Claim 16 recites the modification of the visual rendering of the visualization model so created, according to the client parameters not recited in the creation of the visualization model." page 34 of the Appeal Brief) are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 16 provides a modification of the visualization model, but when this occurs is not disclosed in the claims. As discussed in the Final Rejection of Claim 16, dated February 20, 2008, Davis discloses this modification of the visualization model through the use of the native widgets in order to modify the visualization model (creating a modified model) to alter the visual rendering of the display as per the client terminal. The argument is not persuasive.

Response to Argument IV (2): Appellant argues that Sanderson does not provide teaching or suggestion that a user can modify a visual appearance of the UI. The Examiner notes that this limitation is clearly taught by Davis and the argument is therefore moot.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/A. T./
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